

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA

Arthur Hill,
Plaintiff,
v.
Carvana, LLC and
Bridgecrest Credit Company, LLC,
Defendants.

Civil Action No. 1:22-cv-00037

DEFENDANTS CARVANA, LLC AND BRIDGECREST CREDIT COMPANY,
LLC'S RESPONSE IN OPPOSITION TO PLAINTIFF'S REQUEST FOR
JUDICIAL NOTICE IN SUPPORT OF PLAINTIFF'S RESPONSE IN
OPPOSITION TO DEFENDANTS' CROSS-MOTION FOR SUMMARY
JUDGMENT

Defendants Carvana, LLC (“Carvana”) and Bridgecrest Credit Company, LLC (“Bridgecrest” and together with Carvana, the “Defendants”), by and through undersigned counsel, hereby file this Response in Opposition to Plaintiff’s Request for Judicial Notice in Support of Plaintiff’s Response in Opposition to Defendants’ Cross-Motion for Summary Judgment.

LEGAL STANDARD

Courts may only judicially notice a fact that is not subject to reasonable dispute because it: “(1) is generally known within the trial court’s territorial jurisdiction; or (2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b). “While Federal Rule of Evidence 201 allows a court to take judicial notice of a document filed in another court to establish the fact of such litigation, courts cannot take judicial notice of the factual findings of another court.” *In re*

Hunter, 610 B.R. 479, 491 (Bankr. M.D.N.C. 2019) (quotation marks and citations omitted). The Fourth Circuit provides further clarity on when a court may take judicial notice: “We may take judicial notice of facts outside the record where the fact may not be reasonably disputed and is ‘**relevant and critical** to the matter on appeal.’” *United States v. Townsend*, 886 F.3d 441, 444 (4th Cir. 2018) (quoting *Colonial Penn Ins. Co. v. Coil*, 887 F.2d 1236, 1239 (4th Cir. 1989) (emphasis added); *see also* 21B Charles Alan Wright & Arthur Miller, Fed. Prac. & Proc. § 5104 (2d ed.) (“[C]ourts would be foolish to take judicial notice of an irrelevant fact.”).

ARGUMENT

Plaintiff requests that the Court take judicial notice of a court order filed in a different case involving Bridgecrest as a defendant, *McKie v. Bridgecrest Credit Company, LLC et al.*, No. 1:19-cv-00097-JRH-BKE (S.D. Ga., May 20, 2020), which is attached to Plaintiff’s Request for Judicial Notice as Exhibit 1. (Pl.’s Req. for Jud. Not., ECF No. 29; ECF No. 29-1). Specifically, Plaintiff asks the Court to take notice of a specific factual finding – that Bridgecrest is a servicer and assignee of Carvana – in an order issued by another court. (*Id.*) Plaintiff’s request for judicial notice is improper under Rule 201. *See In re Hunter*, 610 B.R. at 491. In further support thereof, Defendants incorporate their Reply to Plaintiff’s Opposition to Defendants’ Cross-Motion for Partial Summary Judgment filed contemporaneously herewith.

Plaintiff also requests that the Court take judicial notice of a copy of a DocuSign “Certificate of Completion” originally attached to a declaration in support of a motion filed by Carvana in another case, *Saddler v. Carvana, LLC*, Case No. 4:20CV105 HEA (E.D.

Mo. Aug. 11, 2020), which is attached to Plaintiff's Request for Judicial Notice as Exhibit 2. (ECF No. 29; ECF No. 29-2). Defendants do not oppose the Court taking judicial notice of Exhibit 2 (ECF No. 29-2).

CONCLUSION

For the foregoing reasons, Defendants respectfully request that this Court deny Plaintiff's request that the Court take judicial notice of the *McKie* order (ECF No. 29-1).

Dated this 3rd day of May, 2022.

Respectfully submitted,

/s/Ashia Crooms-Carpenter

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*Attorney for Carvana, LLC and
Bridgecrest Credit Company, LLC*

CERTIFICATE OF COMPLIANCE

Pursuant to Local Rules 7.3(d)(1) of the Rules of this Court, I certify that DEFENDANTS CARVANA, LLC AND BRIDGECREST CREDIT COMPANY, LLC'S RESPONSE IN OPPOSITION TO PLAINTIFF'S REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF PLAINTIFF'S MOTION FOR RECONSIDERATION AND MOTION FOR PARTIAL SUMMARY JUDGMENT, which was prepared using Times New Roman 13-point typeface, contains 513 words, excluding the parts of the document that are exempted by Rule 7.3(d)(1). This certificate was prepared in reliance on the word-count function of the word-processing system (Microsoft Word) used to prepare the document.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 3rd day of May 2022.

/s/Ashia Crooms-Carpenter

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*Attorney for Carvana, LLC and
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CERTIFICATE OF SERVICE

I, Ashia Crooms-Carpenter, hereby certify that, on May 3, 2022 a true and correct copy of the foregoing was served upon Arthur Hill using the Court's CM/ECF system:

Arthur Hill
2849 Trestle Court SW
Concord, NC 28025
Pro Se Plaintiff

/s/Ashia Crooms-Carpenter
Attorney for Carvana, LLC and
Bridgecrest Credit Company, LLC